

VZCZCXRO1263
PP RUEHDBU
DE RUEHKV #2498/01 2711333
ZNY CCCCC ZZH
P 281333Z SEP 07
FM AMEMBASSY KYIV
TO RUEHC/SECSTATE WASHDC PRIORITY 3931
INFO RUEHZG/NATO EU COLLECTIVE
RUCNCIS/CIS COLLECTIVE
RUEHLMC/MILLENNIUM CHALLENGE CORP WASHDC

C O N F I D E N T I A L SECTION 01 OF 03 KYIV 002498

SIPDIS

SIPDIS

E.O. 12958: DECL: 09/28/2017
TAGS: [PGOV](#) [PREL](#) [PINR](#) [UP](#)
SUBJECT: UKRAINE: PARTIES LAY OUT CONCERNS, PLANS ON EVE OF
ELECTIONS

KYIV 00002498 001.2 OF 003

Classified By: Ambassador for reasons 1.4(b,d).

[¶1.](#) (C) Summary. As the campaign comes to a halt September 28 at midnight, all three major parties -- Our Ukraine-People's Self-Defense, BYuT, and Party of Regions -- have laid out their final positions, telling international observers that they will abide by any election results that the international community deems free and fair, but accusing their opponents of planning to commit fraud. All are promising to be honest and say they are looking for "compromise" after the elections. OU-PSD and BYuT, following a September 27 meeting between the President and Tymoshenko, are offering key government positions, including the Speakership, to Regions in exchange for acceptance of an orange coalition. PM Yanukovych told the press that he was prepared to work with the "orange parties" after the elections. However, Regions has also emphasized that it has a legal arsenal at its fingertips -- documented election violations, prepared lawsuits, and lawyers stationed around the country -- if it is unhappy with the outcome. With the race still too close to call, accusations and counteraccusations will cloud voting day and could set the stage for a drawn-out series of post-election court challenges.

[¶2.](#) (C) Comment. Official campaigning will come to an end with public appearances by the leaders of the three major parties. President Yushchenko will appear on live television on one of Ukraine's most popular political talk shows. OU-PSD's "top five" led a rally of supporters in Kyiv's European Square. PM Yanukovych, who spent the morning of September 28 in Donetsk, will participate in an evening concert taking place in six cities linked by video (Kyiv, Donetsk, Kharkiv, Odesa, Simferopol and Kirovograd). And Yuliya Tymoshenko will lead a prayer service at Kyiv's St. Sofia's Square. We anticipate that Saturday, September 29, will be a quiet day. However, President Yushchenko is now scheduled to address the nation at 9 pm on the eve of the election -- an appearance that will certainly cause his opponents to cry foul. As the three parties head into election day, their moods are strikingly different. BYuT, with its rumored bounce in the polls, seems excited; Regions more defensive and focused on the task at hand, while Our Ukraine-People's Self Defense is resigned to a third-place finish. End summary and comment.

Our Ukraine: Reassuring All Sides

[¶3.](#) (C) OU-PSD's message in the last days of the campaign seems to be intended to reassure both BYuT and Regions of their good intentions, presumably in hopes of convincing the

two strongest parties that there is no reason to cheat. OU legal eagle Mykola Onyshchuk told a group of observers from the International Republican Institute (IRI) on September 27, and presidential foreign policy adviser Oleksandr Chaliy privately reiterated to the Ambassador, that they were looking for a "consensus" option that would see the main opposition party, either BYuT or Regions, receive key appointments possibly including the Speakership of the Rada.

14. (SBU) At the IRI meeting, Onyshchuk said that OU-PSD's main concerns about voting day are mobile balloting, inaccurate voter lists, and the role of the Border Guards. He said that an OU-PSD party observer will follow all mobile ballot boxes, but they had no illusions that they could control the mobile boxes in the East and South, where most of the commissioners appointed on the OU quota were not die-hard party faithful, and in some cases, actually loyal to Regions. Onyshchuk also said the voter lists this year were worse than the ones used in 2006 and they believed 1,100,000 names appeared twice on the lists -- a problem across the country, but found to be disproportionately high in Donetsk, Luhansk, and Kharkiv. OU-PSD and BYuT had submitted requests to Polling Station Commissions (PSCs), as procedure required, to have the repeat names struck from the lists, but many PSCs in the South and East were refusing to do so. They would appeal to the (District Electoral Commissions (DECs) next, but thought they would have to go to court in some instances to get the lists fixed. He also warned that the legal requirement for the Border Guards to cross off the lists the names of voters who did not return to Ukraine more than three days before the election would result in approximately 600,000 people losing the right to vote. OU would go to court in any district where they thought names had been removed improperly. OU-PSD has issued instructions to all its commissioners not to sign protocols if they themselves had not been allowed to count the ballots.

15. (SBU) In terms of the bloc's plans following the election,

KYIV 00002498 002.2 OF 003

Onyshchuk said that they would acknowledge the results of the vote, and encourage all to do the same, and then to work for a consensus between all major parties. To make a coalition more palatable to whichever party was not in it, OU-PSD was advocating giving key positions, such as the Prosecutor General and the head of the Tender Chamber, which runs the government procurement process, to the opposition to fill. This would give the opposition an oversight role. (Embassy note: Although not explicitly stated, this approach implies that OU-PSD believes that it will be in Government -- either with BYuT in an orange coalition or in a broad coalition with Regions. End Note) Onyshchuk concluded by saying that a bad election would cause Ukraine to lose a lot of valuable time needed for European integration. They remained very worried about fraud in eastern Ukraine, but hoped that Regions' concern about its international reputation and the knowledge that the West was watching closely would deter them from engaging in bad behavior.

16. (C) Chaliy laid out a similar plan for the Ambassador. He said there were two scenarios the Presidential team was exploring -- an orange coalition if OU-PSD and BYuT get 226 seats or a broad coalition between OU-PSD and Regions. In either case, they would bring opposition members into the government, without the party actually joining the government coalition. For example, if there is an orange coalition, they would offer Regions either the Speakership or a Deputy Prime Minister position. In a broad coalition, Tymoshenko would be offered a key spot. He thought that this compromise would be an easier sell with Regions than with Tymoshenko.

17. (C) Comment. Although OU's plan might help reconcile Regions to an orange government, it also seems aimed at coopting Yanukovych or Tymoshenko by forcing them into soft opposition. This might make it harder for whoever the noncoalition member is to attack Yushchenko during the 2009

presidential campaign, because Yushchenko will be able to argue they were all in the government together. End comment.

BYuT: Will Accept Any Free and Fair Outcome, Watch the East

18. (SBU) At a September 28 meeting with the diplomatic corps and international election observers, Tymoshenko pledged that BYuT would accept any election outcome, as long as the vote is deemed free and fair by the OSCE. She said turnout would be high and implied that BYuT's internal poll numbers showed it will do better than expected, while Regions may be suffering. She said they were concerned about falsification, especially in Donetsk, Luhansk, and Crimea, but thought overall levels of fraud would not be high. Her main concern was the use of courts afterwards to challenge the vote count.

Looking past election day, she said that if the democratic forces win a majority, there will be a government within a couple of days. Moreover, they will adopt a law on the opposition to give Regions oversight powers and certain positions, including possibly the Speaker. However, she underscored that in the event that Regions and OU-PSD formed the next government, BYuT would be in opposition and that she would not accept the speakership.

19. (SBU) The previous day, September 27, Tymoshenko's foreign policy adviser Hryhoriy Nemyria laid out much more detailed concerns about falsification for IRI's election observers. He said BYuT's main worries were the voter lists, mobile balloting, and the vote count itself. He said that the voter lists had large numbers of doubles, as well as dead voters -- for example, in Luhansk they had found more than 300 registered voters all over the age of 100. He said sometimes this is a technical problem, but more often it is an intentional attempt to inflate the lists. BYuT had found the most problems in Crimea, Donetsk, Luhansk, Mykolayiv, and Odesa. (Note. Interestingly, later he mentioned they were also worried about Zakarpatiya, the home oblast of Presidential Chief of Staff Baloha. End note.) Nemyria thought Regions would use home voting as a way to get disillusioned Regions voters, who had decided not to vote, to cast a ballot. It is much harder to abstain, he argued, when three or four commissioners show up at your door, especially if one holds a position of influence in the local factory or school. Finally, there could be problems with the vote count. To combat this, BYuT would look to the Democratic Initiatives-led exit poll and conduct its own parallel vote count. He passed out an analysis BYuT had put together of all the possible forms of vote fraud.

110. (SBU) Nemyria also warned that Regions was working on its Plan B. Regions MP Kivalov had published an article urging small parties to go to the courts after the election to contest results. Regions was amassing people and tents in

KYIV 00002498 003.2 OF 003

the Maidan and in front of the CEC. Nemyria said the idea was to slow down the vote count and allow the Yanukovych government to remain in caretaker status while they worked on a new plan and quickly privatized key assets.

Regions: Legal Briefs are Already Prepared

111. (C) Regions representatives Ivan Popesku and Yuriy Miroshnychenko, the head of their legal department, gave polished presentations to IRI about how Regions was more interested than any other party in a free and fair election. After all, they were in the lead and don't want the legitimacy of their new coalition and government to be in question. They talked at length about Regions' code of conduct that all their representatives in the field had to sign, and did their best to persuade the audience that Regions is taking responsibility for making this a free and fair election. In the process, they conveyed the impression that there is a very large contingent of Regions lawyers and

representatives in the field actively documenting election problems, preparing to challenge any allegations that Regions has done anything wrong, and compiling evidence of opposition violations. They have delegated English-speaking representatives to all the regions to meet with international observers. (Embassy note. During poloff's recent meeting at a Regions headquarters in Vinnytsya, such a representative appeared and presented "documentation" of election abuses by Regions' opponents, in both Ukrainian and English. End note.) They made a point of telling us that they held training for their representatives to let them know that only officially documented, legally viable complaints will be accepted. (Comment: At the very least, we expect they will have much better organized evidence than anyone else. In contrast, in 2004 an Orange Revolution organizer told us that it was mostly by chance -- and through the efforts of an NGO -- that they had a database of information on election fraud adequate for the court case that gave them their victory, because none of the parties thought to collect this information in an organized fashion. End comment.)

¶12. (SBU) Miroschnychenko said the main threats to the election were abuse of administrative resources, problems with voters' lists (which would facilitate voting by absent persons), and potential bad behavior or failure to fulfill duties by opposition polling station commissioners. He underscored Regions' view that it was illegal for the President to campaign for one party, alleged that the working groups putting together the voter lists were under the control of presidentially-appointed regional administrations, and said Regions was alarmed by the President's suspension of the Cabinet decrees to check the physical presence of voters, noting that the majority of citizens who are abroad are from Western Ukraine. Miroschnychenko claimed that the Ministry of Interior found that 3.3 million people are abroad, two-thirds of whom are from Western Ukraine. He noted that Regions has collected data about violations by BYuT, Lytvyn, OU-PSD, and Regions -- but none of the allegations against Regions had proved verifiable.

¶13. (SBU) Popesku emphasized that the political crisis that led to this election stemmed from the lack of a broad coalition. He said Regions wants the elections to result in a compromise among the parties, to unite the Ukrainian nation, and therefore it was extremely important that the elections be honest and fair. Regions could not afford to repeat the confrontation of the spring, and he clearly declared that the party agreed to accept any outcome provided it is transparent, honest, and not falsified. He claimed the party has instructed their polling station commissioners to sign the protocols, provided they are objective, and called on its opponents to do the same and not create any obstacles--clearly a reference to their claim that OU/BYuT have ordered their polling commissioners not to sign protocols in the East.

¶14. (U) Visit Embassy Kyiv's classified website:
www.state.gov/p/eur/kiev.
Taylor